

IN THE MATTER OF:

JUDITH MILLER
2203 REDTHORN ROAD
BALTIMORE, MD 21220

RE: DENIAL OF RESERVED
HANDICAPPED PARKING SPACE

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No. CBA-21-007

* * * * *

OPINION

This case comes to the Board of Appeals (the "Board") as the result of the denial of an application for reserved handicapped parking space at 2203 Redthorn Road, Baltimore, Maryland 21220 (the "Property"), as set forth by letter dated August 5, 2020 by Michael F. Filsinger, Chief of the Baltimore County Division of Traffic Engineering to Mr. Earl Beville, Assistant Manager, Investigative and Internal Affairs, Motor Vehicle Administration (MVA).

A public hearing in front of the Board was held on December 15, 2020, at 11:00 a.m. Baltimore County (the "County") was represented by Howard Daue, a Traffic Inspector for the Baltimore County Division of Traffic Engineering. Ms. Miller appeared *pro se*.

Mr. Daue testified that his office received a MVA Application for Personal Residential Permit for Reserved Parking Space ("Application") for Ms. Miller (dated May 5, 2020). (County Exhibit No.1). Following receipt of the Application, Mr. Daue visited and inspected the Property on May 15, 2020 and August 3, 2020 and took photographs of the front and rear of the Property on his visit (See County's Exhibits No.2A-2B). The Property is middle-of-group row house. County Exhibit 2A shows the front of the Property with approximately two sets of steps with 4 steps, and 3 steps respectfully up from the street level to the front door of the Property. Ms. Miller testified that neighbors often leave vehicles parked in front of her residence

for extended periods of time, requiring her to park farther down the street from her house. County Exhibit 2B shows the rear of the Property, which includes a concrete parking pad. Enclosed by a fence and gate. Ms. Miller testified that during the summer months a pool used by her family occupies the parking pad. Mr. Daue, on the basis of the State's verification of physical disability, did not contest Ms. Miller's disability. However, Mr. Daue cited Code of Maryland Regulations, Title 11, Subtitle 16, Chapter 11, which states that a "reserved parking space may not be authorized to the applicant whose property has adequate and accessible off-street parking available." (See County Exhibit 3). Mr. Daue also referred to Section 21-1005 of the Maryland Transportation Article¹ (Reservation of Parking Space for Person Confined to Wheelchair) (See County Exhibit No.4) and Baltimore County Policy on Reserved Parking Spaces for Persons with Physical Disabilities (the "BC Policy") (See County Exhibit No.5). The County concluded that Ms. Miller did not meet the requirements to be issued a reserved parking space for a person with physical disabilities. Mr. Daue submitted into evidence the aforementioned August 2, 2020 letter from Mr. Filsinger, on behalf of the County, to Mr. Beville, denying Ms. Miller's request for a reserved handicap parking space. (See County Exhibit No.6).

The BC Policy (County Exhibit No.5) identifies the factors for determining the approval or denial of an application for reserved on-street parking spaces for persons with physical disabilities. Section 3, entitled "Parking Space", and more particularly, as is relevant here, Sections 3(B) and 3(C) of the BC Policy states the following:

(B) A reserved on-street parking space will not be authorized for any applicant whose property has a self-contained off-street parking area or where off-street parking is provided to the applicant by private sources. This item shall apply to

¹ Section 21-1005(l) of the Maryland Transportation Article states that "In Baltimore County, the establishment of a personal residential parking space shall be subject to approval of the Baltimore County Department of Traffic Engineering, in accordance with the charter and public laws of Baltimore County."

all properties regardless of the time they were built or subdivided. (The property shall be considered to have an available off-street parking area if the aforementioned area existed at the time that the applicant purchased or moved into the property or if it was made available at any subsequent time. If a parking pad, driveway, concrete ribbons, garage, soil stabilized area, etc., was removed or made inaccessible at any time after the applicant purchased or moved into the property, the parking area shall still be considered to exist for purposes of this policy.

(C) The property shall be evaluated on whether the off-street parking area exists, NOT on whether an off-street parking area is available for use. In addition, the placement of any non-permanent objects on top of a parking area (e.g., boats, campers, trailers, above-ground pools, sheds, etc.) will not in any way alter the recognition that the parking area does in fact exist.

When describing the Property, including reference to the photographs, Mr. Daue testified that the rear of the property had a self-contained off-street parking area, and as such, Mr. Daue testified that the application was denied pursuant to BC Policy Section 3(B), with 3(C) having applicability as well. Mr. Daue testified that there were no obstacles, other than those created by the Applicant that would prevent Ms. Miller from using the parking pad.

Ms. Miller admitted that she uses the back parking pad area for a swimming pool in the summer and doesn't prefer to park in the back.

DECISION

In order to reverse the decision of the Baltimore County Division of Traffic Engineering with respect to handicapped parking spaces, Section 8 of the BC Policy, entitled "Appeal of Denial of Reserved Parking Space," requires that the Board find that the Applicant meets **all** of the conditions set forth therein.

The conditions are as follows:

(A) The applicant and/or their household has taken all reasonable measures to make the off-street parking area usable and available to the disabled applicant.

(B) The disability of the applicant is of such a severe degree that an extreme hardship would exist if the applicant were to use the available off-street parking.

(C) The approval of a reserved on-street space is determined to be one of medical necessity and not one of mere convenience for the applicant.

(D) The hardships placed on the applicant's neighbors by reserving an exclusive on-street space for the applicant is outweighed by the hardship that would be placed on the applicant if the space were not approved.

Based on the evidentiary record in front of the Board, the decision of the Baltimore County Division of Traffic Engineering shall be upheld and that the application for the reserved handicapped parking space shall be denied.

As reflected by Mr. Daue's testimony and as illustrated in County Exhibits No. 2A and 2C, the rear of Ms. Miller's Property contains a parking pad. As referenced above, pursuant to County Policy 3(B), a reserved on-street parking space will not be authorized for any applicant whose property has a self-contained off-street parking area. (See County Exhibit No. 5). Ms. Miller does not contest that the rear of their Property contains a self-contained off-street parking area. Under Section 8(A), there must be evidence that Ms. Miller or her household has taken "all reasonable measures to make the off-street parking area usable and available" to Ms. Miller. The record reveals that the rear-parking pad is usable and available.

Similarly, though it is undisputed Ms. Miller has a disability, there must be evidence that the disability is one of a severe degree that using the existing parking pad will constitute an extreme hardship. In this case, no such evidence has been submitted. Therefore, the Board concludes that the evidence does not meet the criteria under Section 8(B) or Section 8(C).

Based on the foregoing, the evidentiary record does not permit the Board to justify overturning the County's denial of the issuance of a reserved parking space for Ms. Miller.

ORDER

THEREFORE, IT IS THIS 4th day of February, 2021, by the
Board of Appeals of Baltimore County,

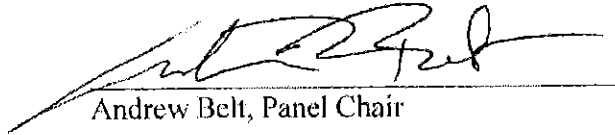
ORDERED that the decision of the Division of Traffic Engineering dated August 2,
2020 in Case No. CBA-21-007 be and the same is hereby **AFFIRMED**; and it is further,

ORDERED that the application of Judith Miller for a reserved handicapped parking
space at 2203 Redthorn Road, Baltimore, MD 21220, be and the same is hereby **DENIED**.

In the Matter of Judith Miller
Case No: CBA-21-007

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*.

**BOARD OF APPEALS
OF BALTIMORE COUNTY**


Andrew Belt, Panel Chair

see following page
Adam T. Sampson

see following page
William A. McComas

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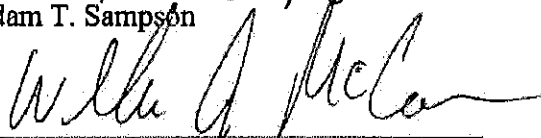
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Board of Appeals of Baltimore County

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February 4, 2021

Judith A. Miller
2203 Redthorn Road
Baltimore, Maryland 21220

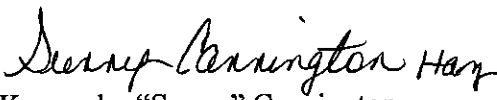
RE: *In the Matter of: Judith A. Miller*
Case No.: CBA-21-007

Dear Ms. Miller:

Enclosed please find a copy of the final Opinion and Order issued this date by the Board of Appeals of Baltimore County in the above subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*, **WITH A PHOTOCOPY PROVIDED TO THIS OFFICE CONCURRENT WITH FILING IN CIRCUIT COURT.** Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,


Krysundra "Sunny" Cannington
Administrator

KLC/taz
Enclosure

- c. Earl Beville, Assistant Manager/Investigative & Security Division/Motor Vehicle Administration
Greg Carski, Chief/Division of Traffic Engineering
D'Andrea L. Walker, Acting Director/Department of Public Works
Nancy C. West, Assistant County Attorney/Office of Law
James R. Benjamin, Jr., County Attorney/Office of Law